

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RACHEL D. BINAKONSKY, *on behalf of  
herself and all others similarly situated,*

Plaintiff,

v.

JM BRANDS LLC,

Defendant.

Civil Action No. 2:21-cv-00444-NR

**DEFENDANT JM BRANDS LLC'S MOTION TO DISMISS  
PLAINTIFF'S COMPLAINT**

Pursuant to Federal Rules of Civil Procedure (“FRCP”) 9(b), 12(b)(1), and 12(b)(6), Defendant JM Brands LLC (“JM Brands”), by and through the undersigned counsel, hereby moves to dismiss with prejudice Plaintiff Rachel D. Binakonsky’s (“Plaintiff” or “Ms. Binakonsky”) Class Action Complaint (D.E. 1). The grounds for this Motion are set forth in JM Brands accompanying Memorandum of Law filed herewith. JM Brands respectfully requests oral argument on its Motion, unless the Court decides to grant relief in its favor based on the full briefing papers presented.

DATED: June 21, 2021

Respectfully submitted,

By: s/ Erica L. Yohe

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*Attorneys for Defendant JM Brands LLC*

**CERTIFICATE OF CONFERRAL**

I, Erica Yohe, counsel for Defendant JM Brands LLC, hereby certify that the parties conferred in good faith but were unable to reach an agreement to resolve the pleading deficiencies raised in Defendant's motion.

Dated: June 21, 2021

*s/ Erica L. Yohe*

Erica L. Yohe

**CERTIFICATE OF SERVICE**

I hereby certify that on this 21st day of June 2021, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

*s/ Erica L. Yohe*

Erica L. Yohe